

## **Planning and Zoning Commission Regular Meeting**

**March 23, 2005**

### **1. CALL SESSION TO ORDER**

The March 23, 2005 Regular Meeting of the Planning and Zoning Commission was held in the Council Chambers of the City Hall of Round Rock located at 221 East Main Street. With a quorum present, Chairman Al Kosik called the meeting to order at 7:04 p.m.

### **2. ROLL CALL**

Present for roll call, along with Chairman Kosik were Commissioners Sandy Arnold, Russ Boles, Dale Austin, Larry Quick, Betty Weeks, Peter Drapes, Ray Thibodaux and David Pavliska. Staff included Susan Brennan, Principal Planner, Bernadette Hayes, Senior Planner, Shannon Burke, Senior Planner, James Hemenes, Park Planner, Alysha Girard, Development Services Manager, Eric Langhout, P. E. Public Works Dept. and Dianna Hutchens, Administrative Technician.

### **3. APPROVAL OF THE FEBRUARY 16, 2005 REGULAR MEETING MINUTES.**

**Motion:** Commissioner Pavliska made a motion to approve the February 16, 2005 regular meeting minutes. Commissioner Thibodaux seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

### **4. CONSENT AGENDA:**

Chairman Kosik asked that Consent Agenda Item 4.D. be removed and discussed at a later time.

- 4.A. Consider the Replat of Lot 1-A, Block B, Interchange Business Park Section 1 (Revised), application no. 2005-007-FP.**
- 4.B. Consider the Extension of Oakmont Centre, Section One, Lot 3, Replat, application no. 2004-045-FP.**
- 4.C. Consider the Extension of Behrens Ranch Phase D, Sections 3, 4, 5 and 6, Preliminary Plat, application no. 2003-026-PP.**
- 4.D. Consider the Palm Valley Plaza Preliminary Plat, application no. 2005-006-PP.**

This item was removed from the Consent Agenda and discussed later in the meeting.

**4.E. Consider the Round Rock Original Plat, Replat of Block 35, Lot 6 and Part of Lot 3, application no. 2005-006-FP.**

**Motion:** Commissioner Drapes made a motion to approve Consent Agenda Items 4.A., 4.B, 4.C and 4.E. Commissioner Arnold seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

**4.D. Consider the Palm Valley Plaza Preliminary Plat, application no. 2005-006-PP.**

Chairman Kosik asked how many access points there would be onto Highway 79. Ms. Girard said the applicant requested two access points onto Highway 79 for all of the lots. Chairman Kosik said he was concerned because it looked like there might be a shared access drive down to Hwy. 79, and if it was, the applicant would have to do something with the drainage culvert. Ms. Girard agreed and suggested that Chairman Kosik look at the area that was centered on the eastern pin and said she thought the applicant was going to try to fit a drive in east of the culvert and the other access would be at the westernmost point at Ryan's Crossing.

Chairman Kosik noted a dark outline over the drainage easement. He asked what the outline indicated. Ms. Girard suggested that it could be the boundary of the channel. Mr. Buster Royce, the Engineer, said the dark outline is the top of the bank of the temporary channel which will come out once the construction of the new culvert is completed. Ms. Girard noted that the outline would not be on the final plat. Chairman Kosik asked that there be a condition added to provide a different line weight for the 50' temporary drainage easement and that the actual call out for the 50' drainage easement be darker.

**Motion:** Commissioner Drapes made a motion to approve the preliminary plat as conditioned. Commissioner Pavliska seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

**5. WITHDRAWN ITEM**

- 5.A. Consider an application filed by Camco Land, Ltd., to amend the Land Use Plan for 2.274 acres of land, more or less, out of the P. A. Holder Survey, Abstract No. 297, Williamson County, Texas, within the Meadows of Chandler Creek from a single-family designation to a commercial designation, application no. 04-011-Z.**

This item has been withdrawn by the applicant.

**6. TABLED ITEMS REQUIRING A PUBLIC HEARING**

- 6.A. Consider public testimony regarding the application filed by Brushy Creek Reserve Investments for approval of the Parkside at Mayfield Ranch Concept Plan, application no. 2004-008-CP.**

Chairman Kosik opened the public hearing and asked if there was anyone present that wanted to provide testimony, seeing no one, he closed the public hearing.

**Motion:** Commissioner Drapes made a motion to continue the public hearing to the April 27, 2005 regular meeting date. Commissioner Austin seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

- 6.B. Consider the Parkside at Mayfield Ranch Concept Plan, application no. 2004-008-CP.**

**Motion:** Commissioner Arnold made a motion to table the public hearing to the April 27, 2005 regular meeting date. Commissioner Boles seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

**7. TABLED ITEMS NOT REQUIRING A PUBLIC HEARING**

- 7.A. Consider the Behrens Ranch Phase D, Section 3, Final Plat, application no. 2005-010-FP.**
- 7.B. Consider the Behrens Ranch Phase D, Section 5, Final Plat, application no. 2005-009-FP.**
- 7.C. Consider the Lisa Rae Drive Subdivision Preliminary Plat, application no. 2005-003-PP.**

- 7.D. Consider the Joyce Lane Subdivision Preliminary Plat, application no. 2005-001-PP.
- 7.E. Consider the Ray Berglund Boulevard Subdivision Preliminary Plat, application no. 2005-04-PP.
- 7.F. Consider the Brushy Creek Regional Wastewater Treatment Plant Final Plat, application no. 2004-069-FP.

**Motion:** Commission Pavliska made a motion to approve the request for tabling Items 7.A., 7.B., 7.C., 7.D., 7.E. and 7.F. to the April 27, 2005 regular meeting date. Commissioner Thibodaux seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

#### 8. ZONING AND PLATTING: PUBLIC HEARING/DISPOSITION

- 8.A. Consider public testimony regarding the application filed by Kids & Games, L.L.C., to amend the uses on 11.7592 acres of land, more or less, out of the J. M. Harrell League, Abstract No. 284, in Williamson County, Texas, in PUD 18, application no. 2005-004-Z.

Mr. Burke presented staff's analysis to the Commissioners noting the recommendation of approval for the amended uses.

Ms. Giselle Schaeffer, the applicant, said there is an existing ball field on the site, which they are considering reutilizing to allow other types of sporting events. They would like to bring in some more competitive activities that will enhance their business and bring tournaments to town that will support the City in being the Sports Capital of Texas. She noted they would also like to replace a section of the concrete wall separating the go-cart area from the parking lot. They would replace the wall with a chain link fence to allow the go-cart area to be seen from the parking lot.

Chairman Kosik opened the public hearing and asked if there was anyone present that wanted to provide testimony, seeing no one, he closed the public hearing.

**8.B. Consider a recommendation to approve the amendment to PUD 18, application no. 2005-004-Z. DP PD**

Chairman Kosik asked if any leagues still played at the ball field. Mr. Joe Schaeffer, applicant said RBI Baseball currently leases the field from them. Chairman Kosik asked if it would still be used for baseball. Mr. Schaeffer said he would like to use the ball field for baseball, soccer, amazing mazes, and other activities.

Chairman Kosik asked if sports could still be played in the 70' setback on the western side of the property. Mr. Schaeffer said yes, but they could not put any kind of structure in the area designated as the setback because it is part of the 100-year flood plain.

Commissioner Quick said he believed in the City's Master Plan the area along the creek is going to be a hike and bike trail. He said he wanted to make sure that there would be a fence along the boundary so people playing other sports would not interfere with the hike and bike trail. Mr. Schaeffer said the green belt would stay in place and the fence and trees will act as a buffer.

Commissioner Drapes asked once the marketing plan is figured out, will this be a conversion from baseball to a new complex to fit the needs of the new product. Mr. Schaeffer said that was correct. He said they do not intend to tear down any fences or light poles because if they should decide to put baseball back in, there would be less expense associated with that action.

**Motion:** Commissioner Pavliska made a motion to recommend approval of the amendment to the uses in PUD 18. Commissioner Drapes seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

**8.C. Consider public testimony regarding the application filed by Behrens Subdivision Ltd. to rezone 20.073 acres of land, more or less, out of the David Curry Survey, Abstract No. 130, in Williamson County, Texas, from OS (Open Space) District to SF-2 (Single-Family Standard Lot) District, application no. 2005-001-Z.**

Ms. Hayes presented staff's analysis of the rezoning to the Commissioners noting the recommendation of approval.

Mr. Jim Meredith, Masonwood Development and Properties, said the 20 acres is out of the flood plain and out of the inundation easement. The lot configuration is designed for a 60' width type product. The preliminary plat located on the north side of this tract was approved for 55', and has been revised to 65' and 75' lots in that area. He said this tract would complete the subdivision.

Chairman Kosik opened the public hearing and asked if there was anyone present that wanted to provide testimony.

Steve and Gloria Godwin, 2714 Cedar Springs Place, said they have lived in the neighborhood since September 2001. One of the main reasons they purchased in Behrens Ranch was because it was described as a golf course community. He noted that the application before the Commissioners this evening is also known as Holes 1 and 2 of the golf course. Their home is the largest single investment of their lives and the future value will be influenced by the decision before the Commissioners this evening. Approximately one year earlier, they and others appeared before the Commission and asked the Commissioners to deny the development application for rezoning for this same 20 acres. The developer subsequently withdrew the application for the rezoning and the community and the Citizens for Golf Litigants celebrated a victory for the preservation of their right to a golf course like they were promised. Also at that time Mr. Eric Pav, the appointed President of the Behrens Ranch Master Association Advisory Committee (Advisory Committee), sent a newsletter to the community with the following statements: "We need to be prepared to battle if this rezoning application should be resubmitted at any time. Enough cannot be said about the efforts of the committee, who worked many hours behind the scenes. We must remain ready and prepared to battle those that attempt to diminish the Behrens Ranch neighborhood home values and preserve the neighborhood open space."

Mr. Godwin said that he and his wife were present at the meeting to oppose the rezoning of the Behrens Ranch Golf Course for the following reasons:

1. The developer settled the lawsuit with most of the litigants in late November. Part of the settlement for the 21 litigants was that they agreed not to oppose, but rather strongly support rezoning of the golf course for residential construction. The second half of the litigants' financial settlement with the developer is contingent upon the rezoning of the 20 acres before the Commission this evening.
2. The communication to the homeowners from the Advisory Committee on this rezoning effort has been limited to a newsletter sent two week ago and a meeting with only 20 of 318 neighborhood residents present. He said there was no mention of the rezoning meeting that was to be held. He said to his knowledge the Advisory Committee has not conducted any type of survey to determine if the home owners would like to surrender the golf course land in exchange for additional home lots and a park.
3. Approximately one-half of the homeowners who attended the recent meeting were part of the settlement with the Developer. At that meeting the President of the Advisory Committee did not inform the homeowners that he and the other 20 litigants had significant financial interest in the approval of the rezoning. The President also incorrectly informed the homeowners at the meeting and in the newsletter that all the litigation against the developer had been settled. It is not the case and there is still outstanding litigation regarding the golf course.
4. At the community meeting the President of the Advisory Committee suggested that the developer could go bankrupt if the rezoning was not approved. If the rezoning is approved, the developer stands to gross an additional \$3 million in revenue from the 20 acres of land that is listed on the plat as golf course. The long-term opportunity for a golf course on this property will forever be shattered if the zoning proposal is approved.
5. At the zoning meeting last year the residents opposed rezoning because there was already an over abundance of existing vacant lots. This is the case and none of the original phases of Behrens Ranch are near completion today after four years of development. There are currently over 600 approved and existing lots in Behrens

Ranch to build and there is no current need to approve the proposed rezoning of the golf course land at this time. The developer and the 21 litigants that have settled would like to expedite the rezoning only to secure the second half of their financial settlement.

Mr. Godwin thanked the Commissioners for their time and urged that the Commissioners not approve the rezoning of the golf course, but rather let the matter be decided by the Courts.

Mr. Eric Pav, 3100 Pecan Crest Cove, said he was the President of the Behrens Ranch Master Association Advisory Committee. His position as President of the Advisory Committee is to try to take into account all of the homeowners needs and desires, and as the President, he offered the support of the homeowners and Advisory Committee to approve the rezoning before the Commissioners. He noted it was approximately one year ago when he stood before the Commissioners with a room full of neighbors that opposed the rezoning of the golf course. At that meeting the issues and concerns were conveyed about the uncertainty of the future development of their community. Mr. Pav said a lot has happened over the last year and a lot of progress has been made. The newsletter that was sent to 318 homeowners outlined the most recent development activities, which reiterates the five concerns that the residents had last year concerning the rezoning and outlined the plan for the future of their community. In addition to the newsletter, the Advisory Committee held an information session that was open to all residents to help address any questions or concerns that the residents might have concerning the new proposal. To date, Mr. Pav has only received one inquiry regarding opposition to the proposal and that was from Mr. and Mrs. Godwin.

Mr. Pav said by granting the rezoning all homeowners will benefit. One of the things that are contingent on this rezoning is a large sum of money for amenity upgrades for the neighborhood. In addition to that, the homeowners concerns regarding the uncertainty of future development of their community have been addressed.

Chairman Kosik asked if there was anyone else that wanted to provide testimony, seeing no one, he closed the public hearing.



- 8.D. *Consider a recommendation to approve the rezoning of 20.073 acres of land, more or less, from OS (Open Space) District to SF-2 (Single-Family Standard Lot) District, application no. 2005-001-Z. (2 motions: 1 failed but the second passed)*

Commissioner Drapes asked what Mr. Pav's relationship was with the 21 litigants that have been mentioned this evening. Mr. Pav said he was one of the 21 litigants.

Commissioner Boles asked if there was a settlement that was contingent on the rezoning of the property. Mr. Pav said part of the settlement is contingent upon the rezoning. He noted it was a smaller amount than the money that has been reserved for the community center upgrades that will be managed and maintained by the homeowners.

Commissioner Arnold addressed the Developer and said when the subdivision was initially marketed; it was labeled as a golf course community. She asked why the concept had changed. Mr. Meredith said the developments profile changed and the golf course entity that was working with the development is no longer involved. Commissioner Austin asked how many lawsuits were still pending regarding the golf course. Mr. Meredith said all of the lawsuits have been settled except for one that involves Mr. and Mrs. Godwin. Commissioner Austin asked what ramifications would face the Godwin's if the rezoning was approved. Mr. McQuery, the Godwin's attorney, said he felt the City's legal counsel should take a look at the issue because there is a dedicated golf course on that piece of ground. He said he felt there was a strong legal question as to whether or not it can be rezoned without all the owners' approval. Commissioner Austin asked if the lawsuit was close to being settled. Mr. Meredith said he did not have an answer.

Commissioner Drapes asked Mr. Meredith where he thought the agreement was with the City regarding the 240 acres. Is it in writing? What is Mr. Meredith's commitment? Mr. Meredith said the 240 acres is all floodplain and inundation easement. He said it did not have any development capabilities at all except for a park, which is what it needs to be. Mr. Meredith said it was his commitment to give the land to the City. Mr. Crossfield said he wanted to respond to Mr. McQuery's suggestion that the Legal Department review the issue. He said the City does not have any idea on what is going on with the lawsuit. As far as the rezoning issue, that is something that is up to the Planning Commission and the

City Council. He said the Planning Commission and City Council can rezone property that someone owns even if the owner does not want it rezoned, much less property next to it. Commissioner Drapes asked if it was an issue that the Planning Commission needed to take note of in their decision. Mr. Crossfield said no. Commissioner Weeks asked if the 240 acres is deeded over to the City then the City will be able to do whatever they want with the park. Mr. Crossfield said no, there are going to be some restrictions as to what the City can do with the acreage. The acreage will need to be a very passive park. He noted the area was in a WCID easement and there is not a lot that can be done there because it does flood on occasion. He suggested there could be hike and bike trails. Chairman Kosik asked if the attached agreement was under review. Mr. Crossfield said the agreement was not with the City but rather with Mr. Meredith and the litigants. Chairman Kosik said he thought Commissioner Weeks had a point and he recommended that Mr. Crossfield look at the language on the bottom of Page 6 because it could be interpreted that the tract is to be maintained as a greenbelt and absolutely no development, and the property would remain untouched in that 200' buffer. Mr. Crossfield said it should simply state that there shall be no development in that 200' buffer. Chairman Kosik agreed and said the way it was phrased it could lead to misinterpretation. Mr. Crossfield noted that the City will have to review the agreement once it is finalized between Mr. Meredith and the litigants.

Commissioner Boles noted that at the last meeting there were more than 21 residents in opposition to the rezoning which he thought was very peculiar. He said he has seen the copy of the newsletter that was distributed to the residents but he did not think at any time he said that the neighborhood was in agreement with the rezoning, he states that the residents did not respond with any emails. Commissioner Boles said he could not believe that the opinion of all of the homeowners has changed over the last year. Though he was not certain of the exact process the City takes to notify property owners of a rezoning, he did not think what he heard in testimony was correct. He said he wanted to re-notify the entire neighborhood and give them another opportunity to speak to the Commissioners. Ms. Hayes explained that the City provides legal notification to the property owners within 300' of the property being rezoned. Commissioner Boles said he was not

comfortable with the decision being made that evening. Mr. Meredith said that this has been a very big issue with the residents and he felt that everyone had been informed. Commissioner Boles said he appreciated that, but he said he was still uncomfortable.

Mr. Larry Yawn, 3208 Whispering Woods Court, said he was not part of the lawsuit. He said he attended the meeting which Mr. Pav spoke of that had a light attendance. Questions were asked at the meeting and nothing he heard was in outright opposition to the proposal that was presented. He said there are some differences from what was presented last year and what is being presented this evening. What the residents wanted to do last year was to insure that the community's interest as a whole was best served, and they thought that was best served if there was some insurance to the homeowners that the property in question was not going to be commercialized or developed into additional residences, apartments or something of that nature. Commissioner Boles asked what is different between what was presented tonight, versus what was presented last year that makes you feel in favor of it. Mr. Yawn said there are fewer single family lots being proposed for the 20 acres, and that the entire 240 acres is going to be given to the City where it will remain an open space. In addition to that, there is an agreement on the part of the Developer to provide money for the homeowners to control, in order to enhance the amenities for the community. He said in his mind, those three things together, will help to insure that the value of their properties is not going to be diminished. Commissioner Boles asked if there was any plan in place as to how the homeowners were going to spend the money. As he understands it, there is to be a homeowners committee designated once the proper steps have been taken for the rezoning and dedication of the land. Once the committee is formed it will control the money that has been designated to develop the amenities. He noted that the committee will be made up of individuals that were litigants and individuals that were not and that there is a two-year time period. Commissioner Boles asked Mr. Yawn by being a resident and a non-litigant, what is his consensus of the neighborhood. He asked if the residents were informed to the degree they need to be informed. Mr. Yawn said that basically the same steps were taken to inform the residents and get them involved. The one thing that was not done this year was to go door to door. He said there were signs erected at the community mailboxes announcing the meeting,

and the newsletter from the Advisory Committee was mailed out sharing the Advisory Committee's perspective as to what was before the citizens. He noted there were approximately 25 residents at this year's meeting versus approximately 75 at the prior year's meeting. Commissioner Drapes asked Mr. Yawn how many individuals serve on the Advisory Committee. Mr. Yawn said there were three individuals. Commissioner Drapes asked of the three, how many of them are involved in the litigation? Mr. Yawn said he did not know that answer.

Mr. Greg Johnson, 2314 Camino Del Verdes, said he was before the Commissioners last year during the rezoning effort and expressed his opposition. He said he was a participant in the settlement litigation against Masonwood, and he is a member of the Citizen for Golf Advisory Team that represented all of the litigants involved in the lawsuit. Mr. Johnson said a decision was made for tonight that just a few individuals would be present at the meeting this evening. All of the litigants, with the exception of one, have settled with the Developer regarding the lawsuit. He said they did not get everything they wanted, but what they were able to do was to protect what they believed were the key issues regarding the future development of the golf course site. He said there is now a dialogue with the Developer where they have respect for one another and as things are done, the results are being communicated which was not happening last year. Just because the number of attendees are less than what they were last year, do not think that there is any less support of what has been negotiated and worked through in the last 2 ½ years in this lawsuit, especially in the last six months. There are terms that have been negotiated in the lawsuit that they feel will hold the Developer accountable to do what he said he is going to do. He said that no one got everything they wanted out of the lawsuit, but eventually it became the needs of many versus the needs of a few. Commissioner Boles said there is a noticeable decrease in the amounts of the individuals who were at the meeting last year. He said he sees the advantage of the rezoning, but there are also disadvantages. He said he was curious if the neighborhood had an understanding of what was taking place this evening. He was concerned that the people that got the residents involved in the past perhaps have not kept the people informed because the lawsuit has been settled, and because of that, there is a gap in the amount of information that was provided. Mr.

Johnson replied that if they knew it would make the Commissioners more comfortable they could have had 50 residents at the meeting, but they felt it was not necessary with the progress that has been made.

Chairman Kosik said he thought the difference this year from last year is that the future of the 240 acres has been determined. He also felt this was a pretty good development going in. He noted he was disappointed that the golf course did not go in because it was the original intent of the property. On the other hand, he said he could understand business conditions and decisions sometimes have to change, which is what he thinks has happened in this situation. Commissioner Boles asked how desirable is the 240 acres to the City. Mr. James Hemenes said it will be a great addition to the City's inventory. There are a few limitations that come with the property such as the floodplain and inundation, but for the type of use the City is discussing, the preserved open space is a big need for the community. He said the Parks Department is really looking forward to adding it to the inventory.

Mr. Crossfield said if you look at the settlement agreement on Page 6, there is a sentence that states "The dedication of the Green Belt Tract is unconditional and will not be withheld even if rezoning as described in Paragraph 3 is unsuccessful." He did not want the Commissioners to think that was a part of the rezoning. When looking at a rezoning, you look at the impact on neighbors, traffic, and parking. The Developer has already stated his intention to dedicate the property either to the City or another group, whether the Planning Commission and City Council decide they want to rezone the property or not. He said it should not be rezoned just for the park, but for other reasons.

Commissioner Quick said there is a new trend in community planning and in subdivision design it is called "Conservation Subdivision Design" and it is based on the motivation that there needs to be natural areas and open space. He said the phrase that is being used with the "Conservation Subdivision Design" is a golf course community without the golf course.

Commissioner Drapes said he was struggling because the majority of the team that was controlling communications to the home owners have a vested interest in this item to

be approved. He said he personally would feel more comfortable if there were a team that did not have a vested interest that were managing how the homeowners feel and he felt that would make it a cleaner decision. Chairman Kosik reminded Commissioner Drapes that you cannot mandate volunteers. Commissioner Drapes said he agreed with that. Chairman Kosik said people have to volunteer to do these kinds of things and evidently these individuals cared enough for the issue to volunteer. Commissioner Arnold noted that every homeowner had the opportunity to be at the meeting this evening. She did not believe that anyone was being controlled by the Advisory Committee. Commissioner Boles asked if the entire neighborhood was noticed. Ms. Hayes said the homeowners within 300' of the area being rezoned were notified. Commissioner Boles asked if that encompassed the majority of the neighborhood. Chairman Kosik said he did not think so. Commissioner Pavliska said the neighborhood meeting was held during spring break which may have made it difficult for some of the residents to attend. Commissioner Arnold said the residents had plenty of notice to be at this meeting. Commissioner Pavliska agreed. Commissioner Austin said he thought this was a different situation. He said this was not a corner lot affecting the immediate neighbors, the entire subdivision bought into a golf course community and the people beyond 300' deserve to be notified. Commissioner Boles said he did not see the harm in tabling the rezoning to the next meeting to give the neighborhood a chance to be better informed. Commissioner Weeks said the residents within 300' were notified and they were not at the meeting this evening. Commissioner Boles said they could also be the remainder of the 21 litigants. He said he felt there had been an information gap. He did not believe things had changed that much that would affect the difference in the number of people attending the meeting this evening. Commissioner Thibodaux said you never have 100% of the residents show up at a neighborhood meeting. He asked if the Advisory Committee had been elected by the homeowners. Mr. Pav said the Advisory Committee was appointed by the Certified Management of Austin which is currently running the Masters Association. Names were submitted and the selected through the management company. He noted that the Committee was created 2 ½ to 3 years ago. Mr. Pav said 120 new homes have been added to the subdivision since last year. He said he did not want the Commissioners to think there were 300 homes last year. There has been considerable growth within the

subdivision. In talking with the sales agents, he has found out that it continues to grow and they are not selling it as a golf course community. Commissioner Thibodaux asked what percent of the neighborhood had been developed. Mr. Pav said they are up to about 1/3 finished.

Mr. Godwin said that Mr. Pav was a self appointed President working with the Developer. He said that last year there was a website developed, flyers were sent out and committee members went door to door sharing the information, but that did not happen this year. Nothing at the meeting, or in the flyer, mentioned that there were two outstanding lawsuits, nor was there anything mentioned about this evening's meeting. He noted that Mr. Johnson, who spoke earlier in the evening, was going to receive one of the largest pieces of the financial settlement because of the size of his home in Mira Vista, as well as having an additional 200' buffer easement. He was aware of at least one email that was sent to Mr. Pav because it was one of his neighbors. Ms. Godwin said one of the items that concerned her was how much impervious ground coverage will be taken up for the new addition of homes, and if the TECQ is involved in any floodplain review. Chairman Kosik said the proposed home sites are outside of the floodplain so the TECQ probably would not be involved. Ms. Girard agreed and said all of the appropriate steps have been taken.

Commissioner Boles asked how many individuals had been noticed. Ms. Brennan responded and said 38 notices were sent out. Commissioner Austin noted that if the Commissioners denied the rezoning, it still does not mean there would be a golf course there. Commissioner Boles said he agreed because he did not know if there was a better resolution than this. He said if the item was tabled, it would give the neighborhood time if it was needed. Commissioner Drapes said he thought the City could send a formal notice to every home in the community. Commissioner Arnold asked if this would be setting a precedent by notifying everyone in the neighborhood. Mr. Crossfield agreed with Commissioner Arnold. Commissioner Arnold said she thought it should be the responsibility of the HOA and she believed the HOA had taken care of it. Chairman Kosik said he was comfortable with a recommendation of approval this evening. Commissioner Boles asked if the rezoning could be approved with a condition that a notice go out to the

entire neighborhood prior to the City Council meeting. Ms. Brennan said she did not think that a zoning recommendation could be conditioned. Commissioner Austin said the residents should go back to the neighborhood and rally for whichever side they are on before the City Council meeting. Chairman Kosik said he agreed with Commissioner Austin.

Commissioner Arnold said she agreed with Chairman Kosik that it was clear there would not be a golf course, but she thought this was a good alternative. Chairman Kosik said the Commissioners needed to be looking at the best use of the property. The information that the HOA is getting money has nothing to do with the recommendation for the rezoning. Commissioner Thibodaux said the homeowners come away with their open space and the City gains 240 acres of parkland. He thought it was a win-win situation. Commissioner Boles agreed, but said he was still disappointed with the notification process. Commissioner Drapes asked why it was in the best interest of the City to convert the 20 acres of open space to residential. Chairman Kosik said he believed the 20 acres would be developed because it was not in the floodplain. Commissioner Arnold said this plan was much better than the plan they presented last year. Chairman Kosik said it was zoned open space initially because there was going to be a golf course and the 20 acres was the only part of the golf course that was not in the inundation easement portion. Commissioner Arnold said she thought the Commissioners should not be thinking about the open space, but rather the 20 acres that is being proposed to be rezoned. She said she thought the homeowners were winning on this issue. The other acreage to her is not that big of an issue. The residents could end up with something much worse than what is being proposed. Commissioner Drapes asked why it was in the best interest for the City for this property to be rezoned from the open space to residential. Chairman Kosik said there would be tax revenue. Commissioner Boles said the tax stream has never been brought into a decision before. Commissioner Austin agreed with Commissioner Boles that the residents needed to be notified again and the rezoning tabled until the next meeting.

**Motion:** Commissioner Boles made a motion to table the rezoning to the April 27, 2005 meeting. Commissioner Drapes seconded the motion.



**Vote:** Ayes: Larry Quick, Russ Boles, Peter Drapes, and Dale Austin. Noes: Sandy Arnold, Betty Weeks, David Pavliska, Ray Thibodaux, and AlKosik. The motion failed with 4 ayes and 5 noes.

Commissioner Pavliska addressed Commissioner Drapes and reminded him that residents have probably seen the meeting on television and will be at the City Council meeting to voice their opinion. Commissioner Drapes said he felt it was the role of the Planning Commission to hear the residents and then pass the best recommendation on to the City Council instead of sending them a possible flood of people. Chairman Kosik said he saw Commissioner Drapes' point, but he was not sure if 20 people saying the same thing would make that big of a difference. He said the people who are in opposition to something will be at the meeting, and those that are for it rarely come out. He wasn't sure if there would have better attendance with any additional efforts than those that were made on notification. Commissioner Boles said he agreed in part with Chairman Kosik. He said he read the letter that the homeowners received and it was informative, but he was not sure if it showed a lot of resolution to the matter. The individuals that seem to have the biggest interest in the rezoning are tied to it financially. He did not think there was a better zoning proposal that could be offered, but regardless, he did not see why tabling the application would hurt. Chairman Kosik said every time there has been a zoning issue that has been tabled, the Commission normally recommends that the Developer work with the HOA to resolve some specific issues, but there are no specific problems with the application, it is just that there were not a lot people that attended the meeting. Commissioner Drapes said his issue was a little more than that, though the attendance did bother him as well. He said he was not sure if the leadership team that has been putting in all of the time, energy and effort has recently switched from having a non-vested interested to a vested interest. He said he would like to see the item tabled in order to give it time to be re-notified and make sure there is enough coverage for the issue of doubt that exists. Commissioner Thibodaux reminded the Commissioners that the motion failed on tabling the item.

Commissioner Arnold asked what else should the Advisory Committee do and how will the Commission insure that it happens. Commissioner Arnold asked Mr. Godwin if

he received the letter that the Commissioners had in their packets. Mr. Godwin said they did, but there was no mention of the meeting this evening. Commissioner Drapes asked when they received the letter. Mr. Godwin said approximately two weeks earlier. Commissioner Drapes asked if they lived within 300' of the proposed development. The Godwin's said no and noted there were no signs in the neighborhood for the association meeting except for one. Out of the 20 people of the meeting, approximately 10 of them were litigants.

**Motion:** Commissioner Arnold made a motion to recommend approval of the rezoning application. Commissioner Thibodaux seconded the motion.

**Vote:** Ayes: Sandy Arnold, Ray Thibodaux, Betty Weeks, David Pavliska and Al Kosik. Noes: Larry Quick, Russ Boles, Peter Drapes and Dale Austin. The motion passed with 5 ayes and 4 noes.

**8.E. Consider public testimony regarding the Behrens Ranch, Phase F Concept Plan, application no. 2005-001-CP.**

Ms. Hayes presented staff's analysis to the Commissioners noting staff's recommendation of approval with one condition:

- The rezoning to SF-2 is approved by the City Council.

The Developer, Mr. Jim Meredith told the Commissioners the builders have requested more square footage and higher price houses, which is what they intend to provide in the development. He feels this transition of lot sizes and the park dedication will complete the subdivision. He noted the buyers for the lots are existing builders within the subdivision.

Mr. Eric Pav said the Behrens Ranch Master Association Advisory Committee supports the proposed development.

Chairman Kosik opened the public hearing and asked if there was anyone present that wanted to provide testimony, seeing no one, he closed the public hearing.

**8.F. Consider a recommendation to approve the Behrens Ranch, Phase F Concept Plan, application no. 2005-001-CP.**

Commissioner Austin said he represents one of the potential builders in the subdivision and will be abstaining from the discussion and motion.

Commissioner Quick asked if there needed to be curvature on some of the more rectangular corners, specifically Block A, Lots 40, Block B, Lots 1 and 9. Ms. Girard said radius for the area will be needed and it will be shown on the more detailed preliminary plat. Chairman Kosik asked if a condition needed to be added for the information. Ms. Girard said that would be fine and noted that at the concept level, that type of information is not required. Commissioner Pavliska referenced Lot 14 and asked what the category of the tree was. Ms. Hayes responded said the two trees that are circled are of some significance and Mr. Horozovic is aware and has talked with the developer. There is the possibility that there may be an adjustment to those specific lot lines and will be addressed on the preliminary plat. Commissioner Drapes said while he challenged the process on the prior application, he said that this is a good addition to the neighborhood.

**Motion:** Commissioner Drapes made a motion to approve the concept plan as conditioned. Commissioner Weeks seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux and Peter Drapes. Noes: None; Abstain: Dale Austin; Absent: None. The motion carried with 8 Ayes and 1 Abstention.

Chairman Kosik announced a five minute recess.

- 8.G. Consider public testimony regarding the application filed by Sweet Home Baptist Church to rezone 8.873 acres of land, more or less, out of the Wiley Harris Survey, Abstract No. 298, in Williamson County, Texas, from PUD (Planned Unit Development) District to TH (Townhouse) District, application no. 04-024-Z; to rezone a 7.592 acre parcel and a 1.712 acre parcel for a total of 9.304 acres of land more or less, out of the Wiley Harris Survey, Abstract No. 298, in Williamson County, Texas, from PUD (Planned Unit Development) District to PF-1 (Public Facilities-Low Intensity) District, application no. 04-025-Z; and to rezone 3.353 acres of land, more or less, out of the Wiley**

**Harris Survey, Abstract No. 298, in Williamson County, Texas, from PUD (Planned Unit Development) District to C-2 (Local Commercial) District, application no. 04-023-Z.**

Mr. Shannon Burke presented staff's analysis of the rezoning from PUD to TH, noting staff's recommendation of approval. He stated that staff has met with the School District and they are full support of extending Surrey Drive.

Mr. Matt Mathis, Interurban Development, said he would be happy to address any questions. He introduced Deacon Wheeler with Sweet Home Baptist Church and said he was the only representative present due to a revival at the church. Mr. Mathis said since the last meeting, staff has had multiple meetings to work on issues that were brought up by the Planning & Zoning Commission and concerns that were raised by the neighbors at the last meeting. He reminded the Commissioners that the concerns raised by the neighbors were not necessarily all about the rezoning of the property, but rather about traffic issues on Gattis School Road. He said an effort was made to contact each of the concerned residents that spoke at the last meeting and they were able to reach all of them except for two. He noted meeting was held by the Kensington Neighborhood Association at the Presbyterian Church, and a presentation was made by their traffic consultant. The architects were also present to address any questions. Basically, the traffic impact analysis showed that Surrey Drive and Gattis School Road is currently a failed intersection. City staff recommended creating an extension of Surrey Drive up to the elementary school. The applicant has agreed to donate the right-of-way and will build the extension. By doing this, it will create a four-way intersection and in the future once traffic counts warrant a traffic signal will be put in. The applicant is also dedicating right of way along Gattis School Rd for a left turn lane. This should make it a serviceable intersection.

Chairman Kosik opened the public hearing and asked if there was anyone present that wanted to provide testimony.

Mr. Steven Ploof, 1709 Cushing Park Drive, said he still had concerns about the traffic issue, especially at the corner of Cushing Drive and Gattis School Road where he lives. He said he was also concerned about the extra right-of-way needed for the left turn lane because it will put ½ of the road in his backyard. He said he was neither for, or against the

rezoning, but he definitely was concerned about the traffic. Chairman Kosik said the City would probably need to visit with him regarding the additional right-of-way needed for the left turn lane.

Mr. Charles Gunn, 605 Windsor Road, said he was wondering with all of the residential around the area, would commercial be the best use for the eastern corner of the property?

Mr. Michael Goertz, 1701 Cushing Park Drive, said he could not think of a finer neighbor than the Sweet Home Baptist Church to be backed up against his property. He agreed that there were problems with traffic but with the new connection of Surrey Drive to Gattis School Road and the new traffic signal, it could be a better situation. He said he was in favor of the rezoning of the property.

Chairman Kosik asked if there was anyone else that wanted to speak either for or against the rezoning. Seeing no one, he closed the public hearing.

**8.H. *Consider a recommendation to approve the rezoning of 8.873 acres of land, more or less, from PUD (Planned Unit Development) District to TH (Townhouse) District, application no. 04-024-Z.***

Commissioner Pavliska asked what the unit size would be. Mr. Mathis said the bungalows would be single family units that could be either one or two story. He said they were calling the units bungalows because they are going to be detached and free standing like a single-family home, with all exterior maintenance and landscaping being maintained by the Association. He said the unit sizes ranged from a smaller unit of 900 – 1100 square feet range, and a large unit of 2000 – 2400 square feet.

Chairman Kosik asked if there was an interface requirement between a town home and a single-family home. Ms. Brennan said it was a standard 20' setback.

Commissioner Boles asked what the major difference was in what was presented previously to the Commissioners and what is being presented this evening. Mr. Mathis said the TIA information has been completed and the outcome has been shared with the Commissioners this evening, and the new turn lane.

Commissioner Drapes asked why commercial was selected for one of the corners. Mr. Mathis said it is part of classic planning. Putting the local commercial in that area is an appropriate buffer use between a busy street and residential. The applicant said it provides an amenity for the area residents so they do not have to go out and drive on Gattis School. Commissioner Drapes shared his concerns regarding the parking situation at the school on the weekends for soccer. He asked if the parking situation was taken into consideration and would it be a problem for the church if the soccer practice started before the first church service. He was concerned that some of the soccer parents would see the church parking lot and the area in front of the church, as another convenient place to park. Mr. Mathis said Surrey Drive will be a 27' right-of-way which will not allow any parking on this stretch of Surrey Drive, and because the soccer parking was not taken into consideration, he was not sure how the church would monitor their parking lot. Commissioner Drapes said parking was a nightmare there on the weekends and he simply wanted to convey that message.

**Motion:** Commissioner Boles made a motion to recommend approval of the rezoning from PUD to TH. Commissioner Pavliska seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

- 8.I. *Consider a recommendation to approve the rezoning of a 7.592 acre parcel and a 1.712 acre parcel for a total of 9.304 acres of land, more or less, from PUD (Planned Unit Development) District to PF-1 (Public Facilities-Low Intensity) District, application no. 04-025-Z.*

Chairman Kosik asked what the interface was between the PF-1 and the C-2. Ms. Brennan said it was 50' with a 15' landscape buffer.

**Motion:** Commissioner Arnold made a motion to recommend approval of the rezoning from PUD to PF-1. Commissioner Boles seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

- 8.J.** *Consider a recommendation to approve the rezoning of 3.353 acres of land, more or less, from PUD (Planned Unit Development) District to C-2 (Local Commercial) District, application no. 04-023-Z.*

Chairman Kosik asked if the tract was the same size that was represented in December, 2004. Mr. Burke said it was the same minus the 20' of dedicated right of way.

Commissioner Thibodaux referenced the TIA and asked what LOS D, E and F stood for. Ms. Girard said LOS is Level of Service, and the LOS will degrade as the letter gets farther away from A. The LOS is based on the delay that people experience and the number of vehicles that are able to get through the intersection.

**Motion:** Commissioner Pavliska made a motion to recommend approval of the rezoning from PUD to C-2. Commissioner Boles seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

## **9. ADDITIONAL PLATS**

- 9.A.** **Consider the Westside Church of Christ Revised Preliminary Plat, application no. 2005-005-PP.**

Ms. Hayes presented staff's analysis of the preliminary plat and noting the recommendation of approval with the following conditions:

- Rename the preliminary plat as follows: Westside Church of Christ Revised Preliminary Plat.
- Re-label on the plat the existing Lot 1, Block A as Section One, Lot 1, Block A and label the new lot as Section Two, Lot 1, Block A.

Commissioner Quick asked if there was a need for a wider sidewalk to allow for more pedestrian, hike and bike access to the proposed Mayfield Park. He said he felt it would

solve a long term issue. Chairman Kosik asked if the Parks Department had any plans for any type of trail or path along the sidewalk of FM 1431, to get people down to the new proposed park. Mr. Hemenes responded and said the Trails Master Plan shows a proposed trail along FM 1431 on the property the City has jurisdiction over. We can only make recommendations to the other jurisdictions as to access and contiguity once the trail comes to the end of our city limits.

Chairman Kosik asked if the entry feature would remain on the church property and will it be maintained by the church? Ms. Girard said she believed they have already put in a landscape easement. She noted that the developer to the rear has development rights allowing landscaping and signage on both side of Mayfield Ranch Boulevard. Chairman Kosik asked if the entry feature was in the landscape easement and would be maintained the Homeowners Association. Ms. Girard said she thought that was correct.

Chairman Kosik noted some easements on the west property line and said one of them was probably incorrect. Ms. Girard agreed. Chairman Kosik asked that a plat note be added to identify the easements. Ms. Hayes suggested that the plat note state:

- Clearly depict the 25 ft drainage easement and the 35 ft ingress/egress easement on the western boundary of the plat.

**Motion:** Commissioner Boles made a motion to approve the revised preliminary plat as conditioned. Commissioner Drapes seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

**9.B. Consider the Westside Church of Christ, Lot 2, Block A, Final Plat, application no. 2005-008-FP.**

Ms. Hayes presented staff's analysis regarding the final plat noting staff's recommendation of approval with the following conditions:

- Rename the plat as follows: Final Plat of Lot 1, Block A, Section 2, Westside Church of Christ.
- The revised preliminary plat is approved.



**Motion:** Commissioner Boles made a motion to approve the final plat as conditioned. Commissioner Weeks seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

**9.C. Consider the Sagebrush Subdivision Preliminary Plat, application no. 2004-018-PP.**

Ms. Hayes presented staff's analysis of the preliminary plat noting staff's recommendation of approval with the following condition:

- The three rezoning requests for the property are approved by the City Council.

Chairman Kosik referenced the additional 20' right-of-way for the left turn lane and said he was pleased to see that. He asked Ms. Girard what was going to happen to the resident's lot that was at the corner. Ms. Girard said the entire length of the 20' right-of-way to the west would not be needed to accommodate the turn lanes. However, for a level of consistency it was needed across the entire tract. She said there has not been any determination as yet on how the City will get the necessary right-of-way.

Commissioner Drapes reiterated his concern regarding the parking during the soccer playing times and said it could be a very bad situation and was something that probably needed to be looked into.

**Motion:** Commissioner Weeks made a motion to approve the preliminary plat as conditioned. Commissioner Arnold seconded the motion.

**Vote:** Ayes: Al Kosik, David Pavliska, Sandy Arnold, Russ Boles, Larry Quick, Betty Weeks, Ray Thibodaux, Dale Austin and Peter Drapes. Noes: None; Abstain: None; Absent: None. The motion carried unanimously.

**10. PLANNER REPORT AND COMMISSION COMMENTS**

Ms. Brennan reminded the Commissioners whose terms were getting ready to expire to make sure their letters requesting reappointment are turned into the City Secretary by May 1, 2005.

Chairman Kosik asked for a summary of legislative bills. Ms. Brennan said she did not have the information with her this evening, but she would make sure the Commissioners received the information. He also asked if staff could share some of the topics that will be discussed at the upcoming retreat. Ms. Brennan noted the request.

Commissioner Boles said he wanted to discuss minimum building standards at the retreat. The information he wanted to discuss included landscaping, building materials, eaves, overhangs and roof lines.

Commissioner Pavliska said he would like to have discussion regarding the accessory dwellings units (ADU) at the retreat. Chairman Kosik said there were probably appropriate uses for those types of dwellings within Round Rock.

## **12. ADJOURN**

Hearing no further discussion, Chairman Kosik adjourned the meeting at 10:24 p.m.

Respectfully Submitted,

Dianna Hutchens  
Administrative Technician III